Information Concerning Proposed Changes in Manitoba's Trucking Regulations

Manitoba
Highways and
Transportation

Honourable
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Minister

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REFORM OF MOTOR TRANSPORT REGULATION

APPROACH

The basic purpose of economic regulation of transportation is to assure that people and businesses in all parts of the province have access to adequate and reliable transportation services at reasonable rates. The degree of regulation required to achieve that aim depends on the size and type of the market. In large urban areas located on the nation's major highways, competition among carriers is probably the best assurance that the public will be served adequately; the major regulatory concerns in such markets are to assure responsible behaviour of the motor carriers; e.g. bonding, cargo insurance, safe handling of dangerous goods, etc. In markets consisting of small rural communities a more active role of the regulatory agency may be required to assure the public of adequate service.

The Government believes that the transportation needs of the public will be best served by regulations which allow for effective and fair competition and which seek to prevent market domination as well as excessive fragmentation and overcapacity. The regulations must be fair, understandable, consistent, and relate as clearly as possible to the objectives being sought; they must also be enforceable in a reasonably efficient and effective manner; both these objectives require a degree of simplicity. The process of applying for and receiving decisions on operating authorities must not be cumbersome, costly and legalistic, and must be fair. Finally, Manitoba regulations must be compatible with those in other jurisdictions.

The Government is aware that different objectives may conflict at some point, that the rigid application of a few principles creates its own problems and that exceptions may be necessary under certain circumstances. However, it is important that the purposes of the rules as well as the reasons for the exceptions be as clear as possible.

BACKGROUND

A Task Force to review the regulations affecting motor transport was established by the Minister of Highways and Transportation in December, 1982. The need for a review had been evident for some time. The legislation regulating transportation by trucks was enacted in 1930 and has changed very little since then; in the meantime, the trucking industry has changed very much indeed. Regulation of railways, the major competitors of the trucking industry, was substantially reduced in 1967 when Parliament passed the National Transportation Act. In the late 1970's the federal and provincial governments resolved to launch an effort to significantly reduce regulations in all sectors of the economy in order to enhance the flexibility of the private sector to respond to business opportunities.

Concurrent with the work of the Task Force the Province has played an active role in the Canadian Conference of Motor Transport Administrators and in the Council of Ministers responsible for Transportation and Highway Safety. Through these institutions we have actively participated in the search for means to streamline the regulations governing extra-provincial trucking and to reduce, where possible, the administrative requirements imposed on companies engaged in extra-provincial transportation. As a result of these discussions the federal and provincial Ministers responsible for Transportation and Highway Safety signed, on February 27, 1985, a Memorandum of Understanding respecting a Federal-Provincial Territorial Agreement on the Economic and Administrative Regulation of Truck Transport.

In the course of the past two years the Task Force has consulted with the major participants in the industry, produced a number of background studies and a discussion paper, held public meetings in all parts of the province, and submitted its final report and recommendations to the Minister in early September, 1984. The report was widely distributed and interested parties were given the opportunity to discuss the

recommendations with the Minister. The discussions indicated that there is broad consensus that the regulatory system is in need of reform, and that there is widespread support for the recommendations made by the Task Force. The comments made by industry representatives have been taken into account in formulating the changes in the regulatory system which the Government is proposing to make.

Regulation of motor transport is part of a complex of government policies and programs in support of transportation. The importance of an efficient and adequate transportation system to the well being of the citizens can hardly be overstated. The Government is also very conscious of the importance of transportation in the provincial economy. From its earliest days Winnipeg has been an important transportation and distribution centre linking the eastern and western parts of Canada. Although the city has lost some ground due to developments in air traffic, it has retained its strategic position in rail and road transportation. Relative to the size of our population more people are employed in transportation in Manitoba than in other parts of Canada, and transportation accounts for a larger share of gross domestic product at factor cost (8%-9%) in Manitoba than in Canada (5%-6%). Although Winnipeg's location has been of critical importance in the growth of the transportation industry, due credit must also be given to the drive and entrepreneurial talent of the people who have built the transportation industry in our province. The Government of Manitoba will continue to work with the trucking industry and will try to do its share to help the industry maintain its strong position in the Canadian and Manitoba economy.

Government regulation of motor transport may conveniently be divided into three broad areas:

1. Setting standards of safety and responsible behaviour; eg. safety standards of vehicles and equipment, licensing of drivers, setting rules of the road, requiring vehicle insurance.

2. Taxation and other conditions for the use of the highway system; eg. classification of vehicles, registration fees, fuel taxes, setting limits on the weight and dimensions of motor vehicles.

3. Economic regulation; eg. regulation of the business of transportation by means of operating authorities and the exercise of rate controls.

Although a review of economic regulation was the primary reason for the establishment of the Task Force, there is considerable overlap between the various categories of regulation. For example, regulations aimed at improving safety and restrictions on the weight and dimension of vehicles affect the cost of truck transportation and affect the ability of truck transport to compete with rail transport. Differences in registration fees between different categories of road users affect the competitive position of one class of carrier versus another. Restrictions on entry which are an important aspect of economic regulation may have an effect on the price of transportation services and on the ability of businesses to compete. Although the recommendations of the Task Force are mainly concerned with economic regulation, they do overlap into other areas of regulation.

OBJECTIVES

The regulatory changes the Government intends to introduce are broadly consistent with the principles and objectives discussed above. Among the specific aims the Government hopes to achieve through the changes are the following:

1. To bring the regulations in closer harmony with the actual conditions prevailing in the trucking industry. The present regulatory framework was designed in 1930 and has changed very little while the structure of the trucking industry and the way

it operates have changed a great deal. Examples of differences between law (Highway Traffic Act) and practice are the widespread use of owner operators by authorized carriers, and the charging of rates other than those filed with or established by the Board.

2. To reduce the level of regulation of motor transport and to give greater scope to private enterprise without reducing the commitment to meet the transportation needs of small communities. (Examples are: shifting the burden of proof from the applicant to the respondent in extra-provincial trucking entry requirements, setting maximum rates only instead of prescribed rates, expanding the list of designated (ease-of-entry) commodities, expanding authorities of rural based carriers).

3. To simplify the truck classification and registration system and to eliminate the present differences in registration fees between regulated and non-regulated for-hire trucks.

4. To promote safety and responsible behaviour in transportation and to improve the enforcement of the Highway Traffic Act.

IMPLEMENTATION

The changes in the regulatory system will be phased in over a period of time. Some changes can be introduced as a matter of policy of the Motor Transport Board. Some changes require amendments of regulations by order-in-council; some require amendments to the Highway Traffic Act. To put all of the Task Force recommendations into effect and to create a new framework for regulating motor transport Part VIII of the Highway Traffic Act needs to be completely rewritten. The drafting of new legislation may take several years, as the changing regulatory environment across Canada must be taken into account.

Changes in Board Regulation

In the coming months the Motor Transport Board will issue new Board Orders to give effect to Manitoba's commitments set out in the Memorandum of Understanding of the Council of Ministers. These include shifting the burden of proof on entry from the applicant to the respondent in extra-provincial trucking. A Board-Order will be published shortly establishing new rules and procedures to make the hearing process more expeditious. The board will also announce the dates for public hearings to hear the views on a proposed expanded list of commodities of which the transportation may be undertaken without a requirement to prove that public convenience and necessity will be served by admitting additional carriers to the industry. It is contemplated that these hearings will be held jointly with the Motor Transport Boards of Saskatchewan and Alberta. The boards of the three provinces hope to establish a common list of these commodities. It is expected that these changes will help bring about improvements in the working conditions of owner operators by opening alternative opportunities to them. Staff of the Motor Transport Board and the Division of Driver and Vehicle Licensing will continue to work with officials of other provinces through Canadian Conference of Motor Transport Administrators to further simplify and streamline regulations and administrative procedures in order to reduce the regulatory and administrative burden on the trucking industry.

CHANGES IN REGULATION

The Government intends to replace MR 231/73 with a new regulation and to amend MR 131/83 to give effect to the Task Force recommendation that all trucks used in extra-urban for-hire transportation be required to be registered as PSV trucks. The new regulation will make it clear that the exemptions are only from the necessity to hold a PSV authority and that the exemptions will not apply to the registration fees normally applicable to PSV trucks. These changes will remove the present anomaly

that registration fees for trucks carrying unregulated commodities are lower than registration fees for trucks carrying regulated commodities. The anomaly is becoming increasingly unacceptable as the list of unregulated or exempt commodities expands.

AMENDMENTS TO THE HIGHWAY TRAFFIC ACT

The government intends to introduce amendments to the Highway Traffic Act during the current session of the Legislature changing the manner in which tariffs of tolls are established. At present, the Act requires that all rates must be approved by the Board or set by the Board. In practice, the Board has found it impossible to enforce fixed rates on an industry-wide basis, and the provision of the Act which requires the filing and approval of rates lower than the standard tariff is almost universally ignored. This brings the whole regulation process into disrepute. In future, the Board will establish maximum tolls which will be compensatory for less-than-truckload service to rural communities. Carriers will be free to offer lower rates and businesses will be free to bargain for lower rates. The maximum rate system thus provides greater flexibility to carriers and shippers alike. There may be circumstances, however, where it will be in the public interest that the Board prescribe a rate, or where it is necessary to set a minimum tariff in order to prevent the use of predatory rates aimed at destroying a weaker carrier. The amendments to the Highway Traffic Act will, therefore, provide the Board with authority to fix tolls and to set minimum tolls as well.

Consistent with the changes in regulations requiring the use of PSV plates to transport exempt commodities, the Government proposes to amend Section 169.1(5) of the Highway Traffic Act which permits the use of farm trucks for compensation to transport crops from farms to market. In order to preserve the original intent of this section (which is to enable farmers to assist one another) while curbing the abuses which have developed, the amendment will restrict the application of the section to trucks or truck trailer combinations with three axles or less. Farmers

who wish to use larger trucks or semi-trailer trucks to engage in for-hire transportation of grain or other unregulated commodities may register their trucks as PSV trucks for all or part of a year.

The Government also intends to introduce a number of amendments aimed at improving the effectiveness of the Board in enforcing the provisions of Part VIII of the Highway Traffic Act.

Other amendments to Part VIII of the Highway Traffic Act will provide a legal basis for the employment of owner operators by authorized carriers. While the truck will be registered in the name of the owner, the authorized carrier employing the owner operator will be responsible for insurance and for compliance with other requirements of the PSV certificate. As mentioned earlier, owner operators will have the alternative of obtaining a certificate from the Board to haul designated commodities without having to prove public need for their services.

FUTURE ACTION

The Government thinks it prudent to defer implementation of recommendations by the Task Force to permit owner-operators to enter into exclusive contracts with business enterprises to haul their goods. Concerns have been expressed that providing such an opening to businesses and to owner-operators might divert traffic from small carriers in rural areas, might threaten the viability of such carriers and might thus jeopardize the regular services to and from rural communities. Although these concerns may overestimate the impact on regular carriers of providing greater scope for businesses to arrange their transportation affairs, it may be prudent to monitor developments in the trucking industry over the next 18 months before considering further the implementation of that recommendation of the Task Force.

As well, a cautious approach seems to be advisable in dealing with the Task Force recommendation to shift the burden of proof in applications for operating authority from the applicant to the respondent(s). The Government has agreed with the other provinces to apply that principle in dealing with applications for trucking authority across provincial boundaries. It seems wise to gain experience in its application in extra-provincial regulation of motor transport, before making the principle applicable in the regulation of trucking within the province.

As recommended by the Task Force, the Government will ask the federal Minister of Labour to set more stringent hours-of-service regulations for operators of motor vehicles in interprovincial transport. Manitoba will seek the cooperation of the Governments of Canada and the other provinces to establish uniform hours-of-work regulations and to develop a system to effectively enforce such regulations.

Finally, the Government agrees with the Task Force that a distinction must be made between passenger services and freight services, and that the existing regulations are working well in providing regular bus services and parcel-express services throughout Manitoba. The bus companies will, therefore, not be affected by the regulatory changes discussed above, except for procedural changes to streamline the operation of the Motor Transport Board. However, the Task Force recommendation to create a separate class for public service passenger vehicles would necessitate further amendments to Part VIII of the Highway Traffic Act. The Government believes that this matter is best dealt with when Part VIII of the Act is rewritten.

It is clear that the reform of motor transport regulation in Canada is moving in the direction of a more open and competitive system. It can be seen from the Memorandum of Understanding that the Council of Ministers

Responsible for Transportation and Highway Safety foresee a continuing process of change. As the effects of the changes become evident, we will gain a better understanding of what further legislative changes will be required to make the regulation of motor transport best serve the public needs.

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